

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Tuesday, September 13, 2016

Hearing Room

5B

10:30 AM

8:10-10310 Robert A. Ferrante

Chapter 7

#1.00 Motion for relief from the automatic stay REAL PROPERTY

LT. COL. WILLIAM L. SEAY (U.S.M.C. RET)
Vs.
DEBTOR

Docket 269

Tentative Ruling:

This is the motion for relief of stay brought by judgment lien creditor, Col William Seay. Alternative theories under 11 U.S.C. §§362(d)(1) [cause] and (d)(2)[no equity, not necessary to a reorganization] are offered. Neither is persuasive. The "cause" argued is that Col Seay is 89 and not in good health, and he would like to realize upon his claim before he dies for benefit of his wife. Additionally, movant argues implicitly that the Trustee has been too slow to realize upon the asset as it has been listed for sale for over two years. But the Trustee reports that he finally has received and accepted a reduced offer at \$4,800,000, which, if the arithmetic is correct, results in a dividend to the estate. As has been previously discussed, this has been an extraordinarily complicated and difficult case, and that it has taken this long to even open an escrow is vexing, but perhaps not that surprising. For example, the Trustee has reported that just getting a title insurance company to touch this knotty case has been a challenge. While the court is very sympathetic to Col.Seay's position, his position is not the only consideration. The court is disinclined to torpedo the sale effort now underway merely to allow a single creditor to conduct a sheriff's sale for no demonstrably better result (and potentially a far worse result).

Similarly unconvincing is the argument based on "no equity and not necessary to a reorganization" under § 362(d)(2). Reorganization is not the issue. Equity may be the issue. Col. Seay acknowledges a carve-out agreement with the Trustee; whether he is repudiating it or not at this point is unclear. But at the very least there may be an avenue to obtaining some proceeds of a sale under that agreement while

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Chapter 7

paying the other half of Seay's lien to him. Also still unsettled is the effect of Remar's claim to a senior position which, although it has been decided by this court in favor of Seay and the estate, is currently on appeal. Consequently, "equity" appears to be a moving and somewhat vague target but this is the movant's burden to prove under §362(g).

None of this is to say that anyone is happy with how long all of this has taken. Nor should anyone assume that the time remaining to sell is limitless. The court expects every prudent effort be promptly made to get this estate liquidated.

Deny

Party Information

Debtor(s):

Robert A. Ferrante

Represented By
Richard M Moneymaker
Arash Shirdel

Movant(s):

William Seay

Pro Se

William Seay

Represented By
Natasha Riggs
Jonathan Gura

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey
Thomas A Vogeles
Kathleen J McCarthy
Brendan Loper

**United States Bankruptcy Court
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8:12-14335 Theresia Kuswendri

Chapter 13

#2.00 Motion for relief from the automatic stay REAL PROPERTY
(cont'd from 8-23-16)

THE BANK OF NEW YORK MELLON
Vs.
DEBTOR

Docket 80

Tentative Ruling:

Grant. Appearance is optional.

Party Information

Debtor(s):

Theresia Kuswendri

Represented By
Bruce D White

Movant(s):

THE BANK OF NEW YORK

Represented By
Erica T Loftis

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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10:30 AM

8:15-15334 Kirk P Howland and Karen W Howland

Chapter 13

#3.00 Motion for relief from the automatic stay REAL PROPERTY
(cont'd from 8-16-16)

U.S. BANK NATIONAL ASSOCIATION
Vs.
DEBTORS

Docket 29

***** VACATED *** REASON: OFF CALENDAR - ORDER GRANTING
MOTION FOR RELIEF FROM THE AUTOMATIC STAY ENTERED 8-29
-16**

Tentative Ruling:

Grant unless APO or complete cure of arrearage.

Party Information

Debtor(s):

Kirk P Howland

Represented By
Christopher J Langley

Joint Debtor(s):

Karen W Howland

Represented By
Christopher J Langley

Movant(s):

U.S. Bank National Association, as

Represented By
Darlene C Vigil
April Harriott

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Tuesday, September 13, 2016

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5B

10:30 AM

8:16-10275 George A Leicht, Jr.

Chapter 7

#4.00 Motion for relief from the automatic stay REAL PROPERTY

WELLS FARGO BANK, N.A.
Vs
DEBTOR

Docket 31

***** VACATED *** REASON: OFF CALENDAR - ORDER ON
STIPULATION TO VOLUNTARILY DISMISS THE MOTION FOR
RELIEF FROM THE AUTOMATIC STAY ENTERED 9-2-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

George A Leicht Jr.

Represented By
Bruce A Boice
Bruce A Boice

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Joseph C Delmotte

Trustee(s):

Richard A Marshack (TR)

Represented By
David M Goodrich

**United States Bankruptcy Court
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Tuesday, September 13, 2016

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11:00 AM

8:12-18909 Gregory F Dixon and Sheri A Dixon

Chapter 7

#5.00 Motion to Convert Chapter 7 Proceeding To A Chapter 13

Docket 93

Tentative Ruling:

The motion does not explain why a conversion back to Chapter 13 is an advantage to anyone. Debtors presumably cannot modify the liens of Schools First under section 1322(b)(2). Even (b)(5) would seem out of reach given the razor thin disposable income. Since there are only a few months remaining (measured from petition date) why isn't a new Chapter 13 a better option?

No tentative.

Party Information

Debtor(s):

Gregory F Dixon

Represented By
Bruce A Boice

Joint Debtor(s):

Sheri A Dixon

Represented By
Bruce A Boice

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

8:13-18781 Professional Electrical Contractors, Inc.

Chapter 7

#6.00 Trustee's Final Report and Application For Compensation:

RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE

MARSHACK HAYS LLP, ATTORNEY FOR CHAPTER 7 TRUSTEE

LEA ACCOUNTANCY LLP, ACCOUNTANT FOR TRUSTEE

DAVID L. HAHN, OTHER PROFESSIONAL

FRANCHISE TAX BOARD

Docket 98

Tentative Ruling:

Allow as prayed. Appearance is optional.

Party Information

Debtor(s):

Professional Electrical Contractors,

Represented By
William M. Burd

Trustee(s):

Richard A Marshack (TR)

Represented By
David Wood
Matthew Grimshaw
D Edward Hays

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11:00 AM

8:11-26359 Martina Maria Rau

Chapter 7

#7.00 Motion to Avoid Lien with Sky Community Association

Docket 45

Tentative Ruling:

This motion is incomplete. It would be easier if Debtor used the court's form. Debtor needs to provide better evidence of fair market value (reference to Schedule D and a self-serving declaration are obviously insufficient) and a complete list of lienholders. The other lienholders should be served. Debtor should also provide better evidence of the amounts of the liens. *Deny.*

Party Information

Debtor(s):

Martina Maria Rau

Represented By
Matthew C Mullhofer
Benjamin C Swinburn

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

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5B

11:00 AM

8:11-26359 Martina Maria Rau

Chapter 7

#8.00 Motion to Avoid Lien with Jonathan Neil & Associate, Inc.

Docket 46

Tentative Ruling:

This motion is incomplete. It would be easier if Debtor used the court's form. Debtor needs to provide better evidence of fair market value (reference to Schedule D and a self-serving declaration are obviously insufficient) and a complete list of lienholders. The other lienholders should be served. Debtor should also provide better evidence of the amounts of the liens. *Deny.*

Party Information

Debtor(s):

Martina Maria Rau

Represented By
Matthew C Mullhofer
Benjamin C Swinburn

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

8:09-22699 Cheri Fu

Chapter 7

#9.00 Petitioning Creditor Bank Of America, N.A.'s Application for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. Section 503(b)(3)(A) and 503(b)(4)
(cont'd from 9-8-15 per order approving stipulation entered 8-12-15)

Docket 383

***** VACATED *** REASON: CONTINUED TO 6-27-17 AT 11:00 A.M.
PER ORDER APPROVING STIPULATION TO CONTINUE HEARING
ON APPLICATION BY BANK OF AMERICA FOR ALLOWANCE AND
PAYMENT OF ADMNISTRATIVE EXPENSE CLAIM ENTERED 8-8-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cheri Fu

Represented By
Evan D Smiley
John T Madden
Beth Gaschen
Susann K Narholm

Movant(s):

Bank of America, N.A.

Represented By
Kathleen S Kizer
Isabelle L Ord

Trustee(s):

James J Joseph (TR)

Pro Se

**United States Bankruptcy Court
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5B

11:00 AM

8:16-11492 ARJL, Inc.

Chapter 7

#10.00 Chapter 7 Trustee's Motion to Abandon and Destroy Debtor's Books and Records
(cont'd 8-23-16)

Docket 38

***** VACATED *** REASON: OFF CALENDAR; ORDER APPROVING
STIPULATION REGARDING RETENTION AND STORAGE OF BOOKS
AND RECORDS ENTERED. 9/8/16**

Tentative Ruling:

As explained in the reply, the motion is granted respecting the 130 boxes, and the motion is withdrawn respecting others on terms outlined.

Party Information

Debtor(s):

ARJL, Inc.

Represented By
Lazaro E Fernandez

Movant(s):

Richard A Marshack (TR)

Represented By
Beth Gaschen

Trustee(s):

Richard A Marshack (TR)

Represented By
Beth Gaschen

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11:00 AM

8:16-11068 Barbara Sharon Riche

Chapter 7

#11.00 Chapter 7 Trustee's Motion for Order: (1) Approving Sale of Real Property [Identified as Lots 170 and 176 of Tract 8271, San Bernardino County, APN 0465-342-10-0-00 and APN 0465-343-01-0-000] Pursuant to 11 U.S.C. Section 363(b) and (f); (2) Approving Compensation of Real Estate Broker; (3) Approving Overbid Procedures; (4) Approving Distribution of Sale Proceeds; (5) For a Good Faith Finding Pursuant to 11 U.S.C. Section 363(m); and (6) Waiver of the Stay of Rule 6004(h)

Docket 32

Tentative Ruling:

Grant.

Party Information

Debtor(s):

Barbara Sharon Riche

Represented By
Richard G Heston

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
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5B

11:00 AM

8:13-11495 Point Center Financial, Inc.

Chapter 7

#12.00 Chapter 7 Trustee's Motion for Order Approving Payments from the Assets of Price & Frye Investments, LLC, to Professionals that Performed Services for Price & Frye Investments, LLC

Docket 1421

Tentative Ruling:

Grant.

Party Information

Debtor(s):

Point Center Financial, Inc.

Represented By

Robert P Goe

Jeffrey S Benice

Carlos F Negrete - INACTIVE -

Trustee(s):

Howard B Grobstein (TR)

Represented By

Rodger M Landau

Roye Zur

Kathy Bazoian Phelps

John P Reitman

Robert G Wilson

Monica Rieder

Jon L Dalberg

Michael G Spector

Peter J Gurfein

**United States Bankruptcy Court
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11:00 AM

8:13-11495 Point Center Financial, Inc.

Chapter 7

#13.00 Chapter 7 Trustee's Motion For Order Approving Payments from the Assets of Jack Rabbit Trail Investors, LLC, To Professionals That Performed Services For Jack Rabbit Trail Investors, LLC

Docket 1423

Tentative Ruling:

Grant. Appearance is optional.

Party Information

Debtor(s):

Point Center Financial, Inc.

Represented By

Robert P Goe

Jeffrey S Benice

Carlos F Negrete - INACTIVE -

Trustee(s):

Howard B Grobstein (TR)

Represented By

Rodger M Landau

Roye Zur

Kathy Bazoian Phelps

John P Reitman

Robert G Wilson

Monica Rieder

Jon L Dalberg

Michael G Spector

Peter J Gurfein

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11:00 AM

8:13-11495 Point Center Financial, Inc.

Chapter 7

#14.00 Appellants' Motion To Stay Pending Appeal

Docket 1404

***** VACATED *** REASON: CONTINUED TO 10-11-16 AT 11:00 A.M.
PER ORDER CONTINUING HEARING ON THE HARKEY PARTIES;
MOTION FOR STAY PENDING APPEAL ENTERED 8-29-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Point Center Financial, Inc.

Represented By

Robert P Goe

Jeffrey S Benice

Carlos F Negrete - INACTIVE -

Trustee(s):

Howard B Grobstein (TR)

Represented By

Rodger M Landau

Roye Zur

Kathy Bazoian Phelps

John P Reitman

Robert G Wilson

Monica Rieder

Jon L Dalberg

Michael G Spector

Peter J Gurfein